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Commissioner for Patents
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MAILED
FROM DIRECTORS OFFICE

AUG 23 2005

TECHNOLOGY CENTER 3600

In re Application of	:	
Jau-Chi Lai	:	DECISION ON PETITION
Application No. 10/632,982	:	TO WITHDRAW THE
Filed: August 4, 2003	:	HOLDING OF
For: MOUSE PAD STRUCTURE	:	ABANDONMENT

This is in response to applicant's petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on May 6, 2005.

The petition is **DISMISSED**.

A review of the file records reveals that the application was held abandoned for failure to timely file a reply to the non-final Office action mailed June 4, 2004. A Notice to that effect was mailed December 30, 2004.

Applicant states that the Office action mailed June 4, 2004 was not received.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Since the application is pro se, statements of non-receipt should include a statement by the applicant, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the

communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (e.g., a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records or other method which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

Applicant's petition of May 6, 2005 does not include any statement that the applicant was at the correspondence address at the time the office action would have been received. Also, no statement has been made by others (the "local agent" handling incoming mail, and anyone else at the correspondence address) that the Office Action was not received. Applicant's petition also does not include any showing of any method that serves as a reminder that a response is due.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and should be mailed to the Commissioner for Patents, P.O. Box 1450, Technology Center 3600, Alexandria, VA 22313-1450.



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SNM/js: 8/16/05